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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,898	07/25/2003	Debra L. Johnson	6584P001	4011

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EXAMINER
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ABBOTT, YVONNE RENEE

ART UNIT	PAPER NUMBER
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3644

DATE MAILED: 05/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/627,898

Applicant(s)

JOHNSON ET AL.

Examiner

Yvonne R. Abbott

Art Unit

3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/25/03</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "transparent ... assembly" of claim 9 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

***Specification***

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because in the 1<sup>st</sup> sentence, the phrase "is described" should be omitted. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 112***

4. Claims 12-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 12 appears to be redundant in claiming that "fastening devices" and "fastening means" to "attach the cover to the container". In particular, claim 12, lines 5 and 7 appear to be reciting the same thing. Also in line 5, "the one or more fastening devices connected to the wall" lacks prior antecedent basis since this feature has not been previously recited.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore (4,779,794). Moore discloses a basket capable of holding an animal comprising a container having a substantially circular base (34), a wall affixed and rising from the base having a rim (18) opposite the base; at least one fastening device (136) connected to the wall; and a substantially hemispherically shaped cover having one or

more counterpart fastening devices (40) corresponding to the one or more fastening devices (see Fig.2) connected to the wall to attach the cover to the container; wherein a handle (22) is mounted on the container; wherein the basket is made of plastic in an open weave pattern.

7. Claims 1-3, 5, 12, 13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Bins (2,032,248). Bins discloses a dog bed comprising a container having a substantially circular base, a wall affixed and rising from the base having a rim opposite the base; at least one fastening device or bolster (1) connected to the wall; and a substantially hemispherically shaped cover (17) having one or more counterpart fastening devices or elastic inserts (21') corresponding to the one or more fastening devices or bolster connected to the wall to attach the cover to the container; wherein a mattress provides covering for the base; and handles (16) are mounted on the container.

8. Claims 1, 2, 3, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Lerner (US 2002/0112674). Lerner discloses a pet carrier comprising a container having a substantially circular base, a wall affixed and rising from the base having a rim opposite the base; at least one fastening device (120, 122, 124, 126) connected to the wall; and a substantially hemispherically shaped cover (102) having one or more counterpart fastening devices (shown but not referenced) corresponding to the one or more fastening devices connected to the wall to attach the cover to the container; wherein a handle (106) is mounted on the container; wherein the carrier can

be made of natural materials (e.g., wood), or synthetic materials; and further comprising a covering (940) for the base.

9. Claims 1 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Hoagland (6,539,895). Hoagland teaches a pet carrying container having a circular base, a wall affixed to and rising from the base having a rim opposite the base; a hemispherically shaped cover, and fastening devices which attach the cover to the container; and a handle mounted on the container.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 5, 6 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore ('794). Moore shows a basket capable of holding a pet having a handle mounted thereto and made from an open weave pattern, however it is not disclosed that the basket is wicker or that it has more than one handle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the basket have more than one handle in order to multiply the effect of easing handling and carriage of the basket. To make the basket wicker would have been obvious since the same open weave pattern is used, and to use natural materials instead of synthetic is considered to be nothing more than a preferred material lacking

disclosed criticality that would have been obvious to one skilled in the art since either material would be suitable for the intended use of forming a woven basket, and since Applicant discloses that the basket may be made from natural or synthetic material.

12. Claims 5 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner. Lerner discloses a pet carrier which has a handle mounted thereto, however, it is not shown that the container has more than one handle. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the basket have more than one handle in order to multiply the effect of easing handling and carriage of the carrier.

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner in view of Gervis (3,834,352). Lerner discloses a pet carrier which can be made of synthetic materials, light-weight metals, and natural materials [0053], however, it is not shown that the cover is made of wire. Gervis teaches a pet carrier having a hemispherical wire frame cover. To provide that the cover of the carrier be of a wire frame is well known and would have been obvious to one of ordinary skill in the art since pet housings having wire frame covers enable the pet owner to observe the animal within the carrier, and allow the animal to see its outside surroundings.

14. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner in view of Thurber (6,196,161). Lerner discloses a pet carrier which can be made of synthetic materials, light-weight metals, and natural materials [0053], however, it is not shown that the cover is transparent. Thurber teaches a pet carrier having a

hermispherical transparent cover (10). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the cover of the carrier be transparent since see-through pet housings are well known since transparent housings and covers aid the pet owner in observing the animal within, and allow the animal to see its outside surroundings as well.

15. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bins in view of Albin (5,002,014). Bins discloses a dog bed comprising a container having a circular base, and a mattress which provides covering for the base; however, it is not disclosed that the covering is backed with liquid impervious material. Albin teaches an animal mattress having an outer casing or backing of material impervious to liquid. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the covering of Bins be liquid impervious as taught by Albin in order to prevent the covering or mattress from becoming stained from urine or from absorbing urine or spilled fluids such that would be uncomfortable for the animal to lay on.

16. Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lerner in view of Anderson (5,233,787). Lerner discloses an animal carrier comprising a container having a circular base, and a covering for the base; however, it is not disclosed that the covering is backed with liquid impervious material. Anderson teaches an animal mattress having an outer casing or backing of material impervious to liquid. It would have been obvious to one of ordinary skill in the art at the time the invention



was made to provide that the covering of Lerner be liquid impervious as taught by Anderson in order to prevent the covering or mattress from becoming stained from urine or from absorbing urine or spilled fluids such that would be uncomfortable for the animal to lay on.

17. Claims 1, 5, 6, 11, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herdwig (3,691,666). Herdwig shows a device capable of holding an animal comprising a wicker basket or container having a base, a wall affixed to and rising from the base having a rim opposite the base; at least one fastening device (20, 21) connected to the wall having adjustable tension, and a cover having an upper edge through which the fastening hooks (21) engage to attach the cover to the container; and handles (15) mounted on the container. Although it is not shown that the Herdwig container is circular and has a hemispherically shaped cover, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design the container in these shapes since the claimed claimed circular base and hemispherical cover lack disclosed criticality, and appear to be no more than one of numerous configurations a person of ordinary skill in the art would find obvious for aesthetic purposes, for accommodating articles shaped thusly, or to provide storage of the basket in a particular space.

18. Claims 1 and 12 are rejected under 35 U.S.C.103(a) as being anticipated by Stoeher (Des. 118,677) in view of Hoagland (6,539,895). Stoeher shows a basket container capable of holding an animal having a substantially circular base, a wall

affixed to and rising from the base having a rim opposite the base; a cover attached to the container; and a handle woven into the basket. However, it is not shown by Stoehr that a fastening device attaches the cover to the container, that the cover is hemispherically shaped, or that there is more than one handle. Hoagland teaches a pet carrying container having a circular base, a wall affixed to and rising from the base, a hemispherically shaped cover, and fastening devices which attach the cover to the container. It would have been obvious to one of ordinary skill in the art to provide that the Stoehr basket be provided with fasteners to attach the cover to the container wall in order to secure the cover to the container thereby preventing the contents of the basket from inadvertently falling or spilling out, or otherwise being removed. The claimed hemispherical shaped cover lacks disclosed criticality, and it would have been obvious to design the basket cover in this shape since it appears to be no more than one of numerous configurations a person of ordinary skill in the art would find obvious for aesthetic purposes, for accommodating articles shaped thusly (i.e. rounded objects), or to provide storage of the basket in a particular space. Additionally, it would have been obvious to one of ordinary skill in the art to provide that the basket have more than one handle in order to make the basket easier to carry or handle.

19. Claims 6, 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stoer in view of Hoagland as applied to claim 1 and further in view of Heh.

Although Stoer shows a circular woven basket having a cover and a handle woven into the basket, it does not disclose that the basket is wicker. Heh teaches a wicker basket

(210) capable of holding an animal and having fastening devices (230) connected to the wall comprising a female and male buckle connector assembly. It would have been obvious to one of ordinary skill in the art to provide the fastening straps with the buckle assembly as taught by Heh to the basket of the combination of Stoer and Hoagland in order to provide a way of carrying the basket on one's shoulders or back, or provide easy attachment and detachment of the basket to different locations.

20. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoagland in view of Johnson (6,701,871). Although Hoagland disclose an apparatus for holding an animal comprising a container having a substantially circular base, a wall affixed to and rising from the base, at least one fastening device connected to the wall, and a cover having one or more fastening devices corresponding to the wall fastening devices it is not disclosed that the fastening devices comprise a male and female buckle connector assembly. Johnson teaches a pet carrier having a male and female buckle assembly (40, 42) for fastening the cover (34) of the carrier to the wall (16). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide that the buckle device of Johnson be used as the fasteners on the Hoagland carrier as it is well known that the buckle is considered to be an alternate equivalent fastening means to other fasteners such as latches, clips, snaps, etc.

21. Claims 1, 3, 5, 10-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson (6,701,871). Johnson teaches a pet carrier comprising a container having a base, a wall affixed to and rising from the base having a rim

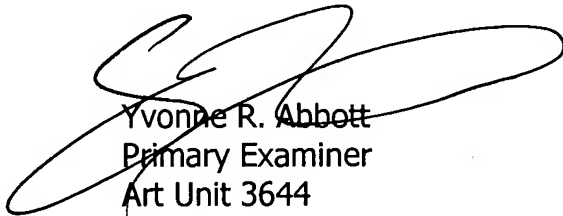
opposite the base; at least one fastening device connected to the wall; and a cover having one or more counterpart fastening devices corresponding to the one or more fasteners connected to the wall to attach the cover to the container wherein the corresponding fastening devices comprise a male and female buckle assembly (40, 42) having a slide to adjust the strap tension (as shown in Figure 2) wherein the assembly is for fastening the cover (34) of the carrier to the wall (16); wherein the container has a covering (28) for the base; and handles or straps (58) mounted on the container.

Johnson, however, does not disclose that the carrier has a circular base and a hemispherically shaped cover. To provide that the shape of the base and cover of Johnson are circular and hemispherical, respectively, would have been obvious to one of ordinary skill in the art since this configuration appears to be nothing more than one of numerous configurations a person of ordinary skill in the art would find obvious in designing storage containers, receptacles, carriers, and the like; and there appears to be no disclosed criticality to the particular claimed shape.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on 7:30-5:00 flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles T. Jordan can be reached on (703)306-4159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott  
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Art Unit 3644